

P19570.A15



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : S. SCHRAGA

Group Art Unit: 3731

Appl. No. : 09/592,680

Examiner: Bui

Filed : June 12, 2000

For : LANCET HAVING ADJUSTABLE PENETRATION DEPTH

**ELECTION WITH TRAVERSE  
TO RESTRICTION MAILED APRIL 20, 2004**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**RECEIVED**  
MAY 25 2004  
TECHNOLOGY CENTER R3700

Sir:

This is in response to the requirement for election of species under 35 U.S.C. 121 mailed from the U.S. Patent and Trademark Office on April 20, 2004, which sets a one month shortened statutory period for response until May 20, 2004.

Applicant notes that this response is being submitted prior to the expiration of the initial due date of May 20, 2004, and is, in fact, being filed prior to the expiration of one month from the mailing of Office Action, whereby an extension of time and an extension of time fee are not required for maintaining the pendency of the application. However, if any government fees are required for maintaining the pendency of this application, including any extension of time fees, Applicant hereby expressly requests any required extension of time, and authorizes that any required fee, including any required extension of time fee, be charged to Deposit Account No. 19-0089.

Reconsideration and withdrawal of the requirement for election of species is respectfully requested in view of the remarks which follow:

## **RESTRICTION REQUIREMENT**

The Examiner has required Applicant under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, the Examiner states that claim 20 is generic.

The species are indicated in the Office Action to be the following:

### **GROUP 1: depth adjustment mechanism at the proximal side of the device:**

Species 1) Fig. 3 (thread connection between 72 and 74 as adjustment mechanism).

Species 1) Fig. 10 (spring 4, protrusion 82 and holes 86 for depth adjustment).

Species 2) Fig. 11 (grooves 90 and ridges 98 connection for depth adjustment).

Species 3) Fig. 19 (adjustment mechanism including screw 152 in cavity of element 38).

Species 4) Fig. 20 (adjustment mechanism including turn key 168 in the cavity of element 38).

### **GROUP 2: depth adjustment mechanism at the distal end of the device housing:**

Species 5) Fig. 14 (thread connection between 20A and 20B for depth adjustment).

Species 6) Fig. 15 (adjustment mechanism including spring 120, spacer 178 [apparently 122]).

Species 8) Fig. 17 (adjustment mechanism including finger 136 and stopper 134).

Species 9) Fig. 18 (adjustment mechanism including finger 142 and stopper 140).

## **ELECTION**

In order to be responsive to the requirement for election of species and based upon a May 20, 2004 telephone call with the Examiner, Applicant elects the species of Fig. 16 including the

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embodiment for adjusting the length of the housing disclosed therein. Applicant respectfully submits that at least each of the independent claims is generic, and request that each of claims 20-28 and 33-127 be examined with the elected species as including embodiments thereof.

#### **TRAVERSE**

Notwithstanding the election of the species of Fig. 16, Applicant respectfully traverses the requirement.

As to the merits of the requirement for election of species, the requirement is traversed since there would not appear to be a serious burden to examine Applicant's application in total, and for which the appropriate claim fees have been paid. Applicant submits that it would be no serious burden on the Examiner to examine all of the pending claims, because a search for all of the claims in the above-identified application, should be made in order to do a complete and thorough search of the generically claimed invention.

In view of the foregoing, it is respectfully requested that the Examiner seriously reconsider the requirement for restriction and election of species, and withdraw the same so as to give an examination on the merits on all of the claims pending in this application. If the Examiner deems that any claims should not be examinable with the elected species, such claims should be rejoined upon allowance of one or more generic claims.

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CONCLUSION

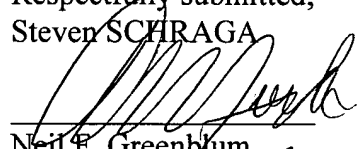
For the reasons discussed above, it is respectfully submitted that the election of species is improper and should be withdrawn.

Withdrawal of the requirement for election of species with the examination of all claims pending in this application is respectfully requested.

Favorable consideration with early allowance of the pending claims is most earnestly requested.

If the Examiner has any questions, or wishes to discuss this matter, please call the undersigned at the telephone number indicated below.

Respectfully submitted,  
Steven SCHIRAGA

  
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May 20, 2004  
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